IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 216 of 2007 (S/B)

Mr. S.K. Mittal S/o Late J.P. Mittal,
R/o 218 Vasant Vihar,
Phase II, Dehradun, Uttarakhand. …… Petitioner

Versus

1. Chairman and Managing Director,
   Uttarakhand Power Corporation Ltd.,
   Urja Bhawan. Kanwali Road,
   Dehradun.
2. Uttarakhand Power Corporation Ltd.,
   through its General Manager,
   Urja Bhawan, Kanwali Road,
   Dehradun.
3. State of Uttarakhand,
   through Secretary (Energy),
   Uttarakhand Secretariat, Dehradun. ……Respondents

Mr. A. Rab, Advocate for the petitioner.
Mr. B.D. Upadhyaya, Advocate for respondents Nos. 1 & 2.
Mr. Ashish Joshi, Brief Holder for respondent No. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. A. Rab, Advocate for the petitioner.

Mr. B.D. Upadhyaya, Advocate for respondents Nos. 1 & 2.

Mr. Ashish Joshi, Brief Holder for respondent No. 3.

They are heard on admission.

2. Petitioner Mr. S.K. Mittal has filed this writ petition for the following reliefs:

> "* Issue a writ of certiorari and / or a writ in the nature of certiorari or any other appropriate writ / order / direction, quashing the order of the respondent number one (annexure number 18) numbered as letter number

3730 NiDe (Ma.Sa.)/Vi.Anu.Ka./Taddinank dated 18th July, 2007.

* Stay the operation of the order of the respondent number one (annexure number 18) numbered as letter number 3730 NiDe (Ma.Sa.)/Vi.Anu.Ka./Taddinank dated 18th July, 2007 during the pendency and until the final disposal of this writ petition.

* Graciously be pleased to pass any such other relief or reliefs as this Hon'ble Court may deem just and proper in the circumstances of this case.

* Award the cost of the petition to the petitioner against the respondents.

3. The petitioner, thus in substance, is seeking quashing of the order dated 18.07.2007 passed by respondent No. 1 withholding the petitioner's pension.

4. Mr. B.D. Upadhyaya, the learned counsel for respondents Nos. 1 & 2 has raised a preliminary objection about the maintainability of the writ petition on the ground that the petitioner has an alternative efficacious remedy of filing a claim petition before the Public Services Tribunal, Uttarakhand.

5. Mr. A. Rab, the learned counsel for the petitioner could not demonstrate as to how the alternative remedy of filing a claim petition before the Public Services Tribunal, Uttarakhand is not efficacious in the present case.

6. In this view of the matter and following the Division Bench decisions in the cases of **Bhuvan Chandra Pandey & others Vs. State of Uttaranchal & others** reported in **2006(2) U.D. 439** and **Nanda Ballabh Pant Vs. State of Uttaranchal & others (W.P.S.B. No. 257 of 2005),** we decline to exercise our discretionary jurisdiction under Article 226 of the Constitute of India.

7. The writ petition, therefore, is dismissed with the liberty to the petitioner to avail the alternative remedy of filing a claim petition before the Public Services Tribunal, Uttarakhand.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C. J.)**
23.08.2007 **23.08.2007**

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